

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

VICTOR RUIZ,

Plaintiff,

v.

ELKO COUNTY JAIL,

Defendant.

Case No. 3:23-cv-00352-MMD-CLB

ORDER

Plaintiff Victor Ruiz brings this pro se civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while he was housed at Elko County Detention Center. On August 2, 2023, this Court gave Plaintiff until October 2, 2023, to either pay the full \$402 filing fee or file a fully complete application to proceed *in forma pauperis* in this action. (ECF No. 3). Three weeks later, Plaintiff filed an application to proceed *in forma pauperis* that is incomplete because Plaintiff did not include a financial certificate that has been signed by a jail official and an inmate trust fund account statement for the previous six months. (ECF No. 4). Plaintiff also filed a letter stating that he “couldn’t get a 6[-]month statement” and “the jail staff ain’t going to sign the papers[.]” (ECF No. 4-1).

Under 28 U.S.C. § 1915(a)(2) and Nevada Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$402 filing fee, by submitting three documents to the Court: (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, which is pages 1 through 3 of the Court’s approved form, with the inmate’s two signatures on page 3; (2) a **Financial Certificate**, which is page 4 of the Court’s approved form, that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

1 If Plaintiff is having difficulty obtaining the required financial certificate and inmate
2 account statement for the previous six-month period from jail officials, he must file a
3 declaration detailing when he requested the documents, who he spoke to about the status
4 of the documents, who he followed up with after he did not receive the documents, and
5 their responses. Plaintiff's declaration must include dates of his requests, dates of his
6 follow-up requests, names of the jail officials whom he spoke to about the matter, and
7 their responses. And Plaintiff must complete and file the first three pages of the application
8 to proceed *in forma pauperis* along with his declaration. If Plaintiff's declaration
9 demonstrates that he has done all that was possible to obtain the documents from jail
10 officials, the Court will consider his application to proceed *in forma pauperis* complete.

11 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No. 4)
12 is denied without prejudice.

13 It is further ordered that, on or before **October 6, 2023**, Plaintiff must do one of the
14 following: (1) pay the full \$402 filing fee, (2) file a fully complete application to proceed *in*
15 *forma pauperis* containing all three of the required documents, or (3) complete and file
16 the first three pages of the application to proceed *in forma pauperis* along with a
17 declaration detailing the efforts that Plaintiff took to acquire the financial certificate and
18 inmate account statement from jail officials.

19 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
20 he fails to timely comply with this order. A dismissal without prejudice allows Plaintiff to
21 refile the case with the Court, under a new case number, when he can file a complete
22 application to proceed *in forma pauperis* or pay the required filing fee.

23 The Clerk of the Court is directed to send Plaintiff Victor Ruiz the approved form
24 application to proceed *in forma pauperis* for an inmate and instructions for the same.

25 **DATED:** September 6, 2023.

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UNITED STATES MAGISTRATE JUDGE